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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

APR 14 2010

KRISTIN K. MAYES - Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

DOCKETED BY

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IN THE MATTER OF THE APPLICATION
OF TRANSTELCO, INC. FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE RESOLD LOCAL
EXCHANGE AND RESOLD LONG
DISTANCE TELECOMMUNICATIONS
SERVICES IN ARIZONA.

DOCKET NO. T-20697A-09-0395

DECISION NO. 71633**ORDER**

Open Meeting
March 31, and April 1, 2010
Phoenix, Arizona

BY THE COMMISSION:

* * * * *

Having considered the entire record herein and being fully advised in the premises, the
Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. On August 19, 2009, Transtelco, Inc. ("Transtelco" or "Applicant") filed an application with the Arizona Corporation Commission ("Commission") for a Certificate of Convenience and Necessity ("CC&N") to provide resold local exchange and resold long distance telecommunication services in the State of Arizona.

2. On September 23, 2009, Transtelco docketed a filing showing that notice of the application had been published in the *Arizona Business Gazette*, a newspaper of general circulation, on September 10, 2009.

3. On November 16, 2009, Transtelco docketed a Certificate of Good Standing issued by the Commission.

4. On December 22, 2009, Transtelco filed revised tariffs.

1 5. On February 12, 2010, the Commission's Utilities Division ("Staff") filed a Staff
2 Report in this matter recommending approval of Transtelco's application subject to the following
3 conditions.

4 6. Staff recommends that:

- 5 a. Transtelco comply with all Commission Rules, Orders and other requirements
6 relevant to the provision of intrastate telecommunications services;
- 7 b. Transtelco abide by the quality of service standards that were approved by the
8 Commission for Qwest in Docket No. T-01051B-93-0183;
- 9 c. Transtelco be prohibited from barring access to alternative local exchange
10 service providers who wish to serve areas where the Applicant is the only
11 provider of local exchange service facilities;
- 12 d. Transtelco be required to notify the Commission immediately upon changes to
13 the Applicant's name, address or telephone number;
- 14 e. Transtelco cooperate with Commission investigations including, but not
15 limited to customer complaints;
- 16 f. Transtelco's proposed rates be classified as competitive;
- 17 g. Transtelco's fair value rate base information, as provided by Staff, not be given
18 substantial weight in this analysis;
- 19 h. Transtelco offer Caller ID with the capability to toggle between blocking and
20 unblocking the transmission of the telephone number at no charge;
- 21 i. Transtelco offer Last Call Return service that will not return calls to telephone
22 numbers that have the privacy indicator activated;
- 23 j. Transtelco comply with Federal Rules and A.A.C. R14-2-1308(A), to make
24 number portability available;
- 25 k. Transtelco provide all customers with 911 and E911 service, where available,
26 or will coordinate with Incumbent Local Exchange Carriers ("ILECs") and
27 emergency service providers to provide 911 and E911 service in accordance
28 with A.A.C. R14-2-120(6)(d) and Federal Communications Commission 57
CFR Sections 64.3001 and 64.3002;
- l. If Transtelco collects advances deposits and/or prepayments from its resold
long distance customers in the future, Transtelco should be required to file an
application with the Commission requesting approval in this docket;
- m. If Transtelco discontinues and/or abandons its service area, it must provide
notice to both the Commission and its customers pursuant to A.A.C. R14-2-
1107; and
- n. The Commission authorize Transtelco to discount its rates and service charges
to the marginal cost of providing the services.

7. Staff further recommends Transtelco comply with the following conditions within the
timeframes outlined or Transtelco's CC&N should be considered null and void, after due process.

a. Staff recommends that:

- (i.) Transtelco docket conforming tariffs for the proposed services described in its
application within 365 days of a Decision in this matter or 30 days prior to providing
service, whichever comes first. Further, the tariffs should state that Transtelco does not

collect advances, deposits and/or prepayments from its customers.

(ii.) Transtelco file proof of a performance bond or irrevocable sight draft letter of credit ("ISDLC") in the amount of \$25,000 within 90 days of a Decision in the matter or 30 days prior to commencing service, whichever comes first;

(iii.) Transtelco file the original performance bond or ISDLC with the Commission's Business Office and file copies with Docket Control, as a compliance item in this docket, within 90 days of the effective date of a Decision in this matter or 30 days prior to beginning service, whichever comes first. The performance bond or ISDLC must remain in effect until further Order of the Commission; and

(iv.) Transtelco complies with all of the Commission's rules related to the Arizona Universal Service Fund.

8. On December 22, 2009, Transtelco filed revised tariffs showing the actual rates and charges for its proposed services. The tariffs also state that Transtelco will not collect deposits from its customers. Therefore, Transtelco has met Staff's requirement that Transtelco file confirming tariffs for its proposed services.

Technical Capabilities

9. Transtelco is a privately held foreign corporation, organized under the laws of Texas, and is authorized to transact business in Arizona.

10. Transtelco is headquartered in El Paso, Texas and is in good standing with the Commission's Corporation Division.

11. Transtelco currently provides competitive local exchange carrier ("CLEC") services in Texas and in New Mexico and has a pending CC&N application in California.¹ According to the Staff Report, the California Utility Commission Staff has recommended approval of Transtelco's application for a CC&N.

12. Transtelco provided information stating its top executives have over 25 years of combined experience in the telecommunications industry. (S.R. at 1)

13. According to Transtelco's application, it has not had an application for a CC&N denied or revoked in any jurisdiction.

14. Based on the above information, Staff concluded that Transtelco has the technical capabilities to provide the services it is requesting in its application.

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¹ Applicant's application.

Financial Capabilities

15. Transtelco provided unaudited financial statements for the years 2008 and through June 30, 2009. Transtelco's financial statements show total assets of \$3,010,358, total equity of \$231,045, and a net income of (\$377,609) for the year ending 2008.

16. Transtelco filed revised tariffs showing that it will not collect deposits from customers in Arizona.

17. Staff recommends requiring Transtelco to secure a performance bond or ISDLC in the amount of \$25,000. Staff based its recommendation on the Commission's policy requiring resold long distance providers, (resellers who collect deposits, advances or prepayments), to secure a \$10,000 performance bond or ISDLC, and requires resold local exchange providers to secure a \$25,000 bond or ISDLC. Staff reasoned that since Transtelco's revised tariffs state that it will not collect deposits from its customers, Transtelco should only be required to secure a \$25,000 bond or ISDLC for its resold local exchange services.

18. Staff further recommends that if Transtelco desires in the future to collect deposits from its customers, Transtelco should be required to file an application with the Commission requesting approval to do so.

19. Although Transtelco stated in its application that the imposition of a bond was not necessary based on Transtelco's annualized revenues of \$3.5 million; Transtelco did not file objections to Staff's recommendation for a bond or ISDLC.

Rates and Charges

20. Staff believes Transtelco will have to compete with various ILECs, CLECs, and interexchange carriers ("IXC") currently providing telecommunication services in Arizona. (S.R. at 3)

21. Given the competitive environment in which Transtelco will be providing service, Staff believes Transtelco will not be able to exert any market power and the competitive process will result in rates that are just and reasonable. (S.R. at 3)

22. Transtelco's rates are for competitive services. According to Staff, in general, rates for competitive services are not set in the same manner as for non-competitive services, although fair

1 value rate base is taken into account as part of the approval process. (S.R. at 3)

2 23. Transtelco submitted revised tariffs showing the actual rates and charges for its
3 proposed services. Staff reviewed the revised tariff rates and charges and believes they are
4 comparable to rates charged by other competitors in the market providing similar services. Staff
5 stated that although Transtelco's fair value rate base information was considered, the information
6 should not been given substantial weight in this analysis.

7 24. Pursuant to Arizona Administrative Code ("A.A.C.") R14-2-1019, Transtelco may
8 charge rates for services that are not less than its total service long-run incremental costs of providing
9 such service.

10 25. Staff believes Transtelco's proposed rates, as presented in its revised tariffs, are just
11 and reasonable and Staff recommends that the rates be approved. (S.R. at 3)

12 **Local Exchange Carrier Specific Issues**

13 26. Pursuant to A.A.C. R14-2-1308(A) and federal laws and rules, Transtelco will make
14 number portability available to facilitate the ability of customers to switch between authorized local
15 carriers within a given wire center without changing their telephone number and without impairment
16 to quality, functionality, reliability or convenience of use.

17 27. In compliance with A.A.C. R14-2-1204, all telecommunications service providers that
18 interconnect into the public switched network shall provide funding for the Arizona Universal
19 Service Fund ("AUSF"). Transtelco will contribute to the AUSF as required by the A.A.C., and shall
20 make the necessary monthly payments as required under A.A.C. R14-2-1204(B).

21 28. In Commission Decision No. 59421 (December 20, 1995) the Commission approved
22 quality of service standards for Qwest which imposed penalties due to an unsatisfactory level of
23 service. In this matter, Transtelco does not have a similar history of service quality problems, and
24 therefore the penalties in that Decision should not apply.

25 29. In the areas where Transtelco is the only local exchange service provider, Transtelco is
26 prohibited from barring access to alternative local exchange service providers who wish to serve the
27 area.

28 30. Transtelco will provide all customers with 911 and E911 service where available, or

1 will coordinate with ILECs, and emergency service providers to facilitate the service.

2 31. Pursuant to prior Commission Decisions, Transtelco may offer customer local area
3 signaling services such as Caller ID and Call Blocking, so long as the customer is able to block or
4 unblock each individual call at no additional cost.

5 32. Transtelco must also offer Last Call Return service, which will not allow the return of
6 calls to the telephone numbers that have the privacy indicator activated.

7 **Complaint Information**

8 33. According to Transtelco's application, it has not had an application for service denied
9 in any state where it has applied for a certificate to provide service. (A-18)

10 34. Staff reviewed information received from the two state Commissions where
11 Transtelco currently provides telecommunication services. Staff found no evidence of any complaints
12 filed against Transtelco in New Mexico, Texas or with the Federal Communications Commission.
13 (S.R. at 5)

14 35. Transtelco reported in its application that its officers, directors, and managers have not
15 been and are currently not involved in any formal or informal complaint proceedings. (A-11)
16 Further, Transtelco's application states that no officers, directors or managers have been or are
17 currently involved in civil or criminal investigations and none have been convicted of any criminal
18 acts within the last ten years. (A-12)

19 36. Based on information from the Commission's Consumer Services Section, Staff found
20 no complaint history for Transtelco in Arizona. (S.R. at 5)

21 **Competitive Analysis**

22 37. Staff recommends approval of Transtelco's proposed services as competitive. Staff
23 states that Transtelco will have to convince customers to purchase its services; has no ability to
24 adversely affect the competitive local exchange or ILEC markets; and alternative providers exist in
25 the markets Transtelco desires to serve. Therefore, Staff believes Transtelco will not have any market
26 power in the markets it wishes to serve and that Transtelco's proposed services should be classified
27 as competitive.

28 38. Staff's recommendations, as set forth herein, are reasonable and should be adopted.

39. Transtelco's rates, as they appear in the revised tariffs, are just and reasonable and should be approved.

CONCLUSIONS OF LAW

1. Transtelco is a public service corporation within the meaning of Article XV of the Arizona Constitution, A.R.S. § 40-285, and A.A.C. R14-2-801 *et seq.*

2. The Commission has jurisdiction over Transtelco and the subject matter of the application.

3. Notice of the application was given in accordance with the law.

4. A.R.S. §§ 40-282 allows a telecommunications company to file an application for a CC&N to provide competitive telecommunications services.

5. Pursuant to Article XV of the Arizona Constitution, as well as the Arizona Revised Statutes, it is in the public interest for Transtelco to provide the telecommunications services set forth in its application.

6. Transtelco is a fit and proper entity to receive a CC&N authorizing it to provide competitive resold long distance and resold local exchange services in Arizona, subject to Staff's recommendations set forth herein.

7. The telecommunications services Transtelco intends to provide are competitive within Arizona.

8. Pursuant to Article XV of the Arizona Constitution as well as the Competitive Rules, it is just and reasonable and in the public interest for Transtelco to establish rates and charges that are not less than Transtelco's total service long-run incremental costs of providing the competitive services approved herein.

9. Staff's recommendations are reasonable and should be adopted.

ORDER

IT IS THEREFORE ORDERED that the application of Transtelco, Inc., for a Certificate of Convenience and Necessity for authority to provide competitive resold local exchange and resold long distance services in Arizona, is hereby approved, subject to Staff's recommendations as more fully described in Findings of Fact Nos. 6 and 7.

IT IS FURTHER ORDERED that if Transtelco, Inc., fails to comply with the Staff recommendations described in Findings of Fact No. 7, the Certificate of Convenience and Necessity granted herein shall be considered null and void after due process.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.


CHAIRMAN



COMMISSIONER


COMMISSIONER


COMMISSIONER


COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 14th day of April, 2010.


ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

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